

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

STC.UNM,

Plaintiff,

v.

INTEL CORPORATION,

Defendant.

Civil No. 10-CV-01077-RB-WDS

**STC'S MOTION TO DISMISS
INTEL'S COUNTERCLAIM FOR UNENFORCEABILITY**

Pursuant to Fed. R. Civ. P. 12(b)(6), STC hereby moves to dismiss Intel's counterclaim for unenforceability which alleges that STC fraudulently obtained its patent rights. Intel's allegations, taken as true, must fail because they (1) lack any evidence of materiality, which is a threshold pleading requirement, and (2) erroneously cast duties upon STC where none exist by rule or in the law. Accordingly, Intel's counterclaim for unenforceability should be dismissed.

Dated: January 31, 2011

Respectfully submitted,

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